



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

JAMES TEAL,
Plaintiff,

vs.

LEROY SMITH, *Director of the Dep't of
Public Safety*,
Defendant.

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CIVIL ACTION 3:19-2454-MGL-PJG

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING THE COMPLAINT WITHOUT PREJUDICE
AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

Plaintiff James Teal (Teal) brought this personal injury action against Defendant Leroy Smith, Director of Public Safety. Teal is self represented.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the Complaint be summarily dismissed without prejudice and without issuance and service of process for lack of subject matter jurisdiction. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 2, 2019, and Teal filed his objections on October 16, 2019, and his supplemental objections on October 28, 2019. The Court has reviewed the objections, but holds them to be without merit. It will therefore enter judgment accordingly.

In the Report, the Magistrate Judge states “there [is] no apparent basis of federal jurisdiction over this matter[.]” Report at 5. But, in Teal’s objections, he contends the Court has federal jurisdiction under 23 U.S.C. § 106, which concerns the “Project approval and oversight” of the federal highway system. But, nothing in this statute shows that Congress intended to create a private cause of action for its violation. *See Endsley v. City of Chicago*, 230 F.3d 276, 279-81 (7th Cir. 2000) (holding that similar federal transportation statutes do not create a private right of action). Thus, the Court will overrule Teal’s objections.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court the Complaint is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Signed this 14th day of April, 2021, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Teal is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to the Federal Rules of Appellate Procedure.